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January 23, 1998

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Ms. Magalie Salas
Secretary
Federal Communications Commission
Room 222
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Washington, Dc 20554

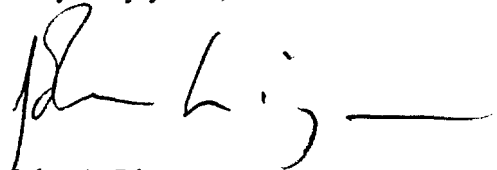
Re: cc Docket No. 96-45 (Report to Congress)

Dear Ms. Salas:

In behalf of Business Networks of New York, we herewith enclose for filing with the Commission an original and four copies of Comments of Business Networks in the referenced proceeding.

If there are any questions in regard to this filing, please contact the undersigned at (973)596-4575.

Very truly yours,


John A. Ligon

JAL/kc

Enclosures

cc: International Transcription Service, Inc.
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WASHINGTON, DC 20554

In the Matter of
FEDERAL-STATE JOINT BOARD ON
UNIVERSAL SERVICE

CC Docket No. 96-45
(Report to Congress)

COMMENTS OF BUSINESS NETWORKS
OF NEW YORK, INC.

Business Networks of New York, Inc. (hereafter, "Business Networks") respectfully submits its comments in respect to the Commission's Report to Congress on Universal Service, as authorized by the Commission's Public Notice No. DA98-2, dated January 5, 1998. Business Networks is a telecommunications service provider headquartered in New York, New York which exclusively offers private line services and which specializes in serving the communications needs of the financial community. Business Networks has recently received Section 214 authorization from the Commission to provide its services between the United States and international points.

In the Public Notice inviting comments in respect to the Commission's Report to Congress on Universal Service, the Commission identified a number of issues which interested parties were invited to address. Among those issues was the following:

(3) who is required to contribute to Universal Service under section 254(d) of the Act and related existing Federal universal service support mechanisms, and any exemption of providers or exclusion of any service that includes telecommunications from such requirement or support mechanisms.

Business Networks wishes to provide brief comments on two aspects of this issue.

In its Report and Order, released May 8, 1997, in this docket, the Commission established a new Federal Universal Service Support Mechanism in furtherance of the requirements of section 254 of the Telecommunications Act of 1996. The essential purpose of such a Universal Service support mechanism is to establish a Universal Service fund which can be used to provide various subsidies designed to promote near-universal access to the U.S. Public Switched Telephone Network (PSTN). However, unlike prior Universal Service support mechanisms established by the Commission, which generally were funded by assessments applied to telecommunications carriers and users that are connected to, or at least directly benefit from the PSTN, the Commission casts a wide net in this proceeding in its determination of entities for which a Universal Service fund support obligation would be assessed. Basically, the Commission has applied the new Universal Service Fund support obligation to all U.S. telecommunications providers.

Among the new entities which are subject to the new Universal Service support obligation are providers of private line services -- which services, in general, are not connected to the PSTN and derive no benefit from the existence of the PSTN. Indeed, the *raison detre* for the use of such private line communications services will often be the avoidance of limitations inherent in the PSTN.

On the other hand, this new Universal Service support mechanism completely excludes internet service providers (ISP's) and enhanced service providers from any obligation to contribute to Universal Service support, which services, in general, are heavily dependent upon, and directly benefit from the PSTN. It is not the purpose here of Business Networks to argue for inclusion of ISP's and enhanced service providers in the pool of contributors to the new Universal Service Fund. Rather, Business Networks suggests that the Commission's apparent rationale for inclusion of entities, such as private lines service providers, which derive essentially no benefit from the PSTN -- language in section 254(b)(4) of the Act specifying that the support obligation apply "to all providers of telecommunication services"-- rings somewhat hollow when viewed against the substantial, and seemingly illogical, exception from that support obligation for ISP's and enhanced service providers. Accordingly, Business Networks urges that the Commission, in formulating its report to Congress, affirmatively explore this question and seek a positive response from the Congress on the specific issue of whether the Commission's policy here -- *i.e.*, that of applying the Universal Service support obligation to telecommunications service providers which receive essentially no benefit from the existence of the PSTN, while excepting from that obligation a large group of entities engaged, essentially, in the provision of value-added telecommunications services, is consistent with the intent of the Congress in formulating the legislation which became Section 254 of the Act.

An even more important concern for Business Networks is the competitive impact of the Commission's imposition of this new Universal Service support obligation on telecommunications service providers such as itself. Business Networks is a comparatively small telecommunications service provider and depends to a significant extent on its ability to provide very competitive pricing for its services in order to maintain and improve its market position.

Business Networks only quite recently, and purely by happenstance, learned of the Commission's imposition of the Universal Service support obligation on private line carriers, and has expeditiously moved to provide the required revenue information reports to the Universal Service Fund administrator. It expects to shortly be billed by that administrator for its proportionate share of the January 1998 Universal Service Fund revenue requirement. At the same time, there are likely numerous competitors of Business Networks which either themselves have no knowledge of the Universal Service Fund Support Obligation, or which have deliberately chosen not to identify themselves to the Fund administrator, and are thereby avoiding payment of this support obligation. For Business Networks, its Universal Service Fund support obligation, which is expected to be at a level of approximately four percent of its gross revenues, represents a substantial cost element and must necessarily be recovered in charges to its customers. It should be obvious that entities such as Business Networks which are actually being assessed and paying their proportionate shares of the Universal Service Fund support obligation will be operating at a serious competitive disadvantage relative to competing entities which are not paying this assessment.

As far as can be determined from a review of the Commission's orders and notices in this proceedings, the Commission has not, to date, addressed this competitive disparity in any manner. It is the understanding of Business Networks from informal discussion with the Commission's Staff that telecommunications service providers subject to the Universal Service support obligation which are identified downstream as being non-contributors to the Universal Service Fund will be retroactively assessed their proportionate share of the fund obligation back to January 1, 1998. However, no reference to such a Commission policy has been found by Business Networks in the Commission's orders or notices in this proceeding.

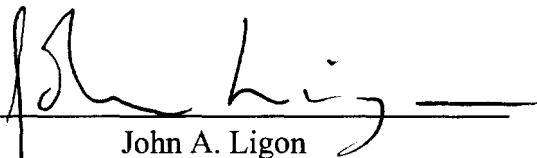
At bottom, Business Networks respectfully suggests that it is critical for the Commission to establish, on an expedited basis, a procedure for assuring that all telecommunications providers subject to the Universal Service support obligation are provided actual notice of their contribution obligations to that fund, and, as well, that an effective enforcement mechanism be established to assure that this support obligation is equitably enforced upon all competing service providers.

Business Networks does not feel that it is in a position to recommend a specific course of action to the Commission for addressing these dual issues of notice and enforcement with respect to the Universal Service support obligation, but respectfully suggest that, in the event that the Commission cannot formulate an equitable solution to this problem using its own resources, the Commission should take whatever steps are necessary to obtain such expertise as is required for reaching such a resolution. To the extent that the Commission may believe that it needs additional statutory authority to address either of these issues, Business Networks urges the Commission to raise that issue in its report to the Congress and to seek such additional authority as it believes warranted.

In conclusion, Business Networks thanks the Commission for the opportunity to express its views on these issues, and respectfully urges the Commission to favorably consider the issues raised here in formulating its Report to Congress in this matter

Respectfully Submitted,

BUSINESS NETWORKS OF NEW YORK, INC

by 
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Dated: January 26, 1998.